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File No. O. Prostitution/50

Legal Department

A BRANCH

Subject:—

Opinions under the

Prevention of Prostitution Act, 1923

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C O N T E N T S.

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Sr. No.	R.I.No. /O. No.	Subject	Pages.
		R/ Opinions under the Prevention of Prostitutions Act, 1923.	
1.	57-L 10-50	Re. Information with regard to the legislation in force in the various States in India, and in other countries regarding prostitution.	1 -6
2.	~~1536~~ 15365 3-11-50	Re. Prosecution of a woman who is said to be carrying on business of a common prostitute. Interpretation of the word "Common Prostitute".	7 -8 .

27/6

K.S.R.
27/6

Legal Department.

In India various States have enacted laws for preventing prostitution. In the United Kingdom as well as in the United States of America also there are various laws aimed at preventing prostitution. These laws are as under :-

Name of the State.	Laws of States in India Name of the Act.
Bombay.	(1) The Prevention of Prostitution Act, 1923 (XI of 1923).
	(2) Sections 152 and 153 of the Bombay District Municipal Act, 1901.
	(3) Sections 188 and 189 of the Bombay Municipal Boroughs Act, 1925.
Madras.	The Madras Suppression of Immoral Traffic Act, 1930 (V of 1930).
Uttar Pradesh.	U.P. Suppression of Immoral Traffic Act, 1933.
East Punjab.	The Punjab Suppression of Immoral Traffic Act, 1935 (IV of 1935).
West Bengal.	The Bengal Suppression of Immoral Traffic Act, 1933 (IV of 1933).
Assam.	The Assam Disorderly Houses Act, 1936 (IV of 1936).
	Other foreign Countries.
The United Kingdom.	(1) The Disorderly Houses Act, 1818.
	(2) Universities Act, 1825.
	(3) The Criminal Law Amendment Act, 1885.
	(4) Teh Vagrancy Act, 1824.
	(5) The Vagrancy Act, 1898.
	(6) The Criminal Law Amendment Act, 1912.
The United States of America.	(1) The U.S. Code, Title 8, Volume I sections 136(g) and 138.
	(2) The U.S. Code, Title 18 Volume II, sections 398 to 402.

2. Provisions of the Bombay Law - Under the Bombay Prevention of Prostitution Act, 1923, the following Acts are punishable -

(a) by gestures attracting attention of or soliciting or molesting any person for the purpose of prostitution or carnal intercourse or any act of gross indecency (section 3);

(b) permitting prostitutes in places of public amusement for the purposes of their trade (section 4);

(c) living on the earnings of prostitution (section 5);

(d) procuring any woman or girl with the intent that she may for the purposes of prostitution become the inmate of or frequent a brothel (section 6);

(e) importing woman or girl for prostitution (section 7);

(f) unlawful detention of a woman or girl for the purpose of prostitution (section 8);

(g) letting or permitting the use of permises as a brothel (section 8B);

(h) carrying on the business of common prostitute in premises in the vicinity of public places (section 9B);

(i) permitting permises to be used for business of common prostitutes (section (9B);

ection 9 of the Act empowers the Commissioner to direct e removal of prostitutes from a particular place. Unde ection 9A the Commissioner of Police has power to serve tice on a landlord directing him not to permit his remises to be used for prostitution. A contravention o ch a notice is an offence under the Act (section 9A). offence under the Act is cognisable (section 10) and iable by a migistrate of First Class.

Provisions of the Madras Law - The dat acts declar be offences under the Bombay Act, have been declared offences under the Madras Suppression of Immoral affic Act, 1930. Under the Madras Act, the act of

act of keeping or managing a brothel is made punishable. Such a provision does not occur in the Bombay Act. Sections 6 of the Madras Act provides for the removel of a girl under 18 from a brothel or disordely house, who, in the opinion of the magistrate, is living or carrying on, or is being made to carry on, the business of prostitution in the brothel or disorderly house. Sections 6 to 8 provide for the custody and subsequent treatment of such a girl. The Bombay Act does not contain such a provision. The Madras Act, however, does not contain provisions similar to the provision of sections 9 and 9A of the Bombay Act. The offences under the Madras Act are cognisable ~~by~~ x by a police officer not below the rank of Inspector and triable by a magistrate of the first class.

4. Provisions of the U.P. Law - The United provinces suppression of Immoral Traffic Act, 1933 is practically on the lines of the Madras Act. Under the U.P. Act only the offence of soliciting for the purpose of prostitution is cognisable. Other offences are non-cognisable.

5. Provisions of the Punjab Law. The acts declared to be offences under the Bombay and Madras Acts are also offences under the Punjab Suppression of Immoral Traffic Act, 1935. The Madras Act contains provisions for the removal of girls under 18 from a brothel and for the custody of such girls. The Punjab Act, if a person having custody or charge of a ~~f~~ girl under 18, causes or encourages

aim such provision but under section 9 of the Punjab Act;

the seduction or prostitution of that girl is punishable with imprisonment upto two years and / or fine upto Rs. 1000/- and if such person be a male, he is liable to whipping. Under section 10 of the Punjab Act, the District Magistrate has power to order discontinuance of a place being used as a brothel. This provision is analogous to the provisions of sections 9 and 9A of the Bombay Act. For launching prosecutions under the Punjab Act, previous sanction of the District Magistrate is necessary (section 13).

6. Provisions of the Bengal Law - The Bengal Suppression of Immoral Traffic Act, 1933 is more comprehensive:

(a) the acts punishable under the Bombay Act are also punishable under the Bengal Act.

(b) The Bengal Act provides for the removal of minor girls from a brothel and for suitable custody of such girls. These provisions are analogous to the provisions of the Madras Act.

(c) The Bengal Act in section 12 provides for punishing a person who having the custody or charge of a minor girl, causes to encourages the seduction or prostitution of such girl. This provision is analogous to the provision of section 9 of the Punjab Act.

(d) The Bengal Act provides for the power of the Commissioner of Police or Superintendent of Police to order discontinuance of house, room or place as brothel. (section 6). This provision is analogous to the provisions of section 9 & 9A of the Bombay Act.

Under the Bengal Act, all offences are cognisable and triable by a magistrate of the first class.

7. Provisions of the Assam Law - The Assam disorderly Houses Act, 1936, contains provisions only for discontinuance of any house being used as a brothel. So this Act can be said to correspond with the Bombay Act only to the extent of the provisions of section 9A of the Bombay Act.

Laws of the United Kingdom and the United States of America.

8. Law of the United Kingdom - The disorderly Houses Act, 1818 empowers overseers of the poor, to prosecute persons keeping disorderly houses on a notice being give by any two inhabitants of any parish or place. The Universities Act, 1825 provides for punishing prostitutes found wandering within the precincts of the University of Oxford. The Criminal Law Amendment Act, 1885, provides for the suppression of brothels, punishment for procuration and defilement of a woman or girl, for punishing a house-holder for permitting defilement of young girl on his premises; for unlawful detention for the purpose of prostitution. The Criminal Law Amendment Act, 1912 declares offences relating to procuration as cognisable and provides for the determination of tenancy of premises used as a brothel. The Vagrancy Act, 1824 provides for punishment to prostitutes. Under the Vagrancy Act, 1898, persons living on the earning of prostitution or soliciting in any public place for an immoral purpose are liable to be punished.

9. Provisions of U.S.A. Law: Under sections 398 to 402 of Title 18 (Criminal Code) of the U.S. Code, the acts of transportation of woman or girl for immoral purposes, inducing ~~transport~~ interstate transportation of woman or girl under 18 for immoral purposes

are made punishable. Under section 136 (g) of Title 8 (Aliens and Nationality prostitutes or persons coming into U.S.A. for the purpose of prostitution or for any other immoral purpose are excluded from admission to the U.S.A.; also persons who directly or indirectly procure or import prostitutes or persons for the purpose of prostitution and persons who are supported by or receive the proceeds of prostitution are excluded from admission into U.S.A. under section 138 of the same Title, importation of an alien for the purpose of prostitution or for any other immoral purpose is forbidden. Prostitution near military and naval establishments has been declared unlawful. (See 518a, Title 18 U. S. Code).

o/c Sd J.R.D
3/8

Additional Secretary to Government.

U.R. to H.D. No. 57-L dated 4th October 1950.

C.G.R. 26-6

C 5

Office of the R.L.A.

A " common prostitute" includes a woman who offers her body commonly for acts of lewdness for payment, although there is no act, or offer of an act, or ordinary sexual connection: R. v. De Munck, 1918, 1 King's Bench, p.635). The view taken by the Secretary, Home Department, that the fact of the women kk being common prostitutes can be proved by evidence of residents and neighbours is correct. It may be added that in such evidence should be included the evidence of inmates of St. Anthony's Home upon whose complaint these proceedings originally started.

2. It appears that the Magistrate has held the notice also to be defective. That being so, the better course would be to collect unimpeachable evidence on the point that the accused were carrying on the business of common prostitutes and then to serve them with the required notice giving them minimum time allowed by law.

o/c Sd/-(P.M.L.).

Remembrancer of Legal Affairs.

U.R. to H.D. No. 15365 , dated the 3rd November 1950.

C.G.R. 26-6

C 5